

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on March 5, 1999 at 3:00 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Bill Eggers (D)
Rep. Bob Raney (D)
Rep. Bob Story (R)

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 40, SB 64, SB 72, 3/2/1999
Executive Action: SB 40, SB 64, SB 72, SJ 3

HEARING ON SENATE BILL 40

Sponsor: Sen. Duane Grimes, SD 20, presented SB 40. The bill would delete the restrictions on the department's ability to sell power from its facility and allow a little more flexibility in the new deregulated environment. He pointed out Montana Power had offered to buy their way out of the contract above Toston. This contract may have a broader market than what they are constricted at under current law. This would allow them to maximize return on the state's investment, protect the bond payments and use the proceeds to rehabilitate dams across Montana.

Proponents: Bud Clinch, Director of Department of Natural Resources and Conservation, spoke for the bill.

EXHIBIT (nah50a01) He described the Toston Dam facility that was built in 1940 for irrigation purposes. He said the department had been looking for a potential source of revenue to have revenue generated on an annual basis to provide resources for rehabilitation for some of the other state owned projects. In 1987 the department retrofitted Toston Dam for hydro-generation and entered into a 30 year contract with Montana Power for the sale of that power. The revenue generated provide revenues for four things: operation and maintenance costs to run the facility, annual payment into maintenance rehabilitation account, pay back on bond payments and an earnings account for repair of other facilities around the state. The bill proposes to amend the statute, a provision that said the department could not sell power generated at a facility except to a public utility, a rural electric coop or a federal power marketing agency selling to Montana customers. This language was negotiated at the time to keep the state from competing.

Opponents: None.

Questions from Committee Members and Responses: Rep. McGee asked why the original restrictions were put in place. Director Clinch replied under the regulating environment it was delineated who could market power. *{Tape : 1; Side : A; Approx. Time Counter : 7.1}*

Closing by Sponsor: Sen. Grimes closed. Rep. Masolo will carry the bill. *{Tape : 1; Side : A; Approx. Time Counter : 15.6}*

HEARING ON SENATE BILL 64

Sponsor: Sen. Arnie Mohl, SD 39, presented SB 64.

EXHIBIT (nah50a02) He discussed gravel pit permitting

requirements. Once the requirements are met and the permits approved, when the hot plant is moved to another pit you have to go through the MEPA process again. Plants and equipment are moved several times during the construction season. This bill would allow the use of the same permit and avoid duplication.

{Tape : 1; Side : A; Approx. Time Counter : 16.7}

Proponents: Jan Sensibaugh, Department of Environmental Quality, described permitting of plants and how SB 64 would improve the program. She provided written testimony. **EXHIBIT (nah50a03)**

{Tape : 1; Side : A; Approx. Time Counter : 21.3 - 27.1}

Opponents: None.

Questions from Committee Members and Responses: Rep. Harper asked about assurances that the people in the locale of the gravel pit had adequate notice. Jan Sensibaugh replied the public was still in control.

Closing by Sponsor: Sen. Mohl closed. He pointed out that those in the business followed all rules and regulations. The fines would destroy the business and they take it very seriously. **{Tape : 1; Side : A; Approx. Time Counter : 28.9 - 31.8}**

HEARING ON SENATE BILL 72

Sponsor: Sen. Bob Keenan, SD 38, said SB 72 was at the request of Department of Environmental Quality. The bill brings the state into conformance with the federal clean water act. He discussed sections of the bill and how they apply to state requirements. The proposed changes would allow the department's water program to function more effectively and efficiently and clarify and correct some inconsistencies in current law.

Proponents: Jan Sensibaugh, representing the Department of Environmental Quality, discussed the bill and presented written testimony. **EXHIBIT (nah50a04)**

Steve Pilcher, representing the City of Billings, spoke in favor of the bill. He said the bill was a response to update the statutes to reflect today's needs and conditions. **{Tape : 1; Side : A; Approx. Time Counter : 38.4}**

Don Allen, representing Western Environmental Trade Association, testified in support of the bill.

Carl Sweitzer, representing Montana Wood Products Association, pointed out the need for updating.

Opponents: None.

Questions from Committee Members and Responses: Rep. Erickson asked if the Uniform Enforcement Act that was tabled in the Senate should be put back in. Jan Sensibaugh replied it should not since it was very contentious for both sides. Rep. Erickson asked if the state was in compliance with EPA regarding nitrate and arsenic. Sensibaugh said SB 499 addresses the EPA concerns.

Closing by Sponsor: Sen. Keenan closed.

EXECUTIVE ACTION ON SENATE BILL 40

Rep. Harper **MOVED DO CONCUR SB 40**. He said this was a clear need. The reason the provisions were tucked in was to appease the power companies and the coops that the state wasn't going into the power generation and sale business directly to customers. Now we need to take it out because if we don't we'll be prohibited from selling this now that the industry is non-regulated.

The question was called. The motion **PASSED** unanimously.

EXECUTIVE ACTION ON SENATE BILL 72

Rep. McGee **MOVED DO CONCUR**. Rep. Younkin **MOVED** an amendment regarding CI-75. The question was called on the amendment. The motion **PASSED** unanimously.

Rep. Younkin **MOVED DO CONCUR AS AMENDED**. Rep. Orr felt the nitrate levels were set too low and he was against the bill. He pointed out that by adopting lower standards it has added costs to the treatment of water that the citizens have had to bear. The fines were increased from \$500 to \$1000 only because the EPA said we had to or we would lose primacy and he did not like that kind of federal top down control. **{Tape : 1; Side : A; Approx. Time Counter : 57.5}**

The question was called. The motion **PASSED** 15-4 with Reps. McGee, Orr, Curtiss and Wagner voting no.

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 3

Rep. Curtiss **MOVED DO CONCUR**. She said she encouraged attention to reporting. The question was called. The motion **PASSED** 19-0.

ADJOURNMENT

Adjournment: 4:11 P.M.

REP. BILL TASH, Chairman

DEB THOMPSON, Secretary

BT/DT

EXHIBIT (nah50aad)